



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2017-0620; FRL-9974-85-Region 9]

Approval and Promulgation of Implementation Plans; California; California Mobile

Source Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a submittal by the State of California (“State”) to revise its State Implementation Plan (SIP). The submittal consists of State regulations establishing standards and other requirements relating to the control of emissions from certain new and in-use on-road and off-road vehicles and engines. The EPA is proposing to approve the SIP revision because the regulations meet the applicable requirements of the Clean Air Act. If finalized, approval of the regulations as part of the California SIP will make them federally enforceable.

DATES: Any comments must arrive by **[Insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2017-0620 at <http://www.regulations.gov>, or via email to John Ungvarsky, at Ungvarsky.John@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be

Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment.

The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system).

For additional submission methods, please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: John Ungvarsky, EPA Region IX, (415) 972-3963, ungvarsky.john@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

Table of Contents

I. Background

II. The State’s Submittal

- A. What regulations did the State submit?
- B. Are there other versions of these regulations?
- C. What is the purpose of the submitted regulations?
- D. What requirements do the regulations establish?

III. EPA’s Evaluation and Proposed Action

- A. How is the EPA evaluating the regulations?
- B. Do the State’s regulations meet CAA SIP evaluation criteria?
- C. Proposed Action and Public Comment.

IV. Incorporation by Reference

V. Statutory and Executive Order Reviews

I. Background

Under the Clean Air Act (CAA or “Act”), the EPA establishes national ambient air quality standards (NAAQS) to protect public health and welfare. The EPA has established

NAAQS for certain pervasive air pollutants including ozone, carbon monoxide, nitrogen dioxide, sulfur dioxide, lead and particulate matter. Under section 110(a)(1) of the CAA, states must submit plans that provide for the implementation, maintenance, and enforcement of the NAAQS within each state. Such plans are referred to as SIPs, and revisions to those plans are referred to as SIP revisions. Section 110(a)(2) of the CAA sets forth the content requirements for SIPs. Among the various requirements, SIPs must include enforceable emission limitations and other control measures, means, or techniques as may be necessary or appropriate to meet the applicable requirements of the CAA. *See* CAA section 110(a)(2)(a).

Emissions sources contributing to ambient air pollution levels can be divided into two basic categories: stationary emissions sources and mobile emissions sources. As a general matter, the CAA assigns stationary source regulation and SIP development responsibilities to the states through title I of the Act and assigns mobile source regulation to the EPA through title II of the Act. In so doing, the CAA preempts various types of state regulation of mobile sources as set forth in section 209(a) (preemption of state emissions standards for new motor vehicles and engines), section 209(e) (preemption of state emissions standards for new and in-use off-road vehicles and engines),¹ and section 211(c)(4)(A) (preemption of state fuel requirements for motor vehicle emission control, *i.e.*, other than California's motor vehicle fuel requirements for motor vehicle emission control -- *see* section 211(c)(4)(B)).

Under California law, the California Air Resources Board (CARB) is the State agency responsible for adopting and submitting the California SIP and SIP revisions. Over the years, CARB has submitted, and the EPA has approved, many county and regional air district rules

¹ EPA regulations refer to "nonroad" vehicles and engines whereas California Air Resources Board (CARB) regulations refer to "off-road" vehicles and engines. These terms refer to the same types of vehicles and engines, and for the purposes of this action, we will be using CARB's chosen term, "off-road," to refer to such vehicles and engines.

regulating stationary source emissions as part of the California SIP. *See generally* 40 CFR 52.220(c). With respect to mobile sources not specifically preempted under the CAA, CARB has submitted, and the EPA has approved, certain specific State regulatory programs, such as the in-use, heavy-duty, diesel-fueled truck rule, various fuels regulations, and the vehicle inspection and maintenance program (I/M, also known as “smog check”). *See, e.g.*, 77 FR 20308 (April 4, 2012) (in-use truck and bus regulation), 75 FR 26653 (May 12, 2010) (revisions to California on-road reformulated gasoline and diesel fuel regulations) and 75 FR 38023 (July 1, 2010) (revisions to California motor vehicle I/M program).

CARB and the air districts rely on these county, regional and State stationary and mobile source regulations to meet various CAA requirements and include the corresponding emissions reductions in the various regional air quality plans developed to attain and maintain the NAAQS. The EPA generally allows California to take credit for the corresponding emissions reductions relied upon in the various regional air quality plans because, among other reasons, the regulations are approved as part of the SIP and are thereby federally enforceable as required under CAA section 110(a)(2)(A).

With respect to mobile sources that are specifically preempted under the CAA, CARB must request a waiver (for motor vehicles) or authorization (for off-road engines and equipment) in order to enforce standards relating to the control of emissions and accompanying enforcement procedures for these types of mobile sources. *See* CAA sections 209(b) (new motor vehicles) and 209(e)(2) (most categories of new and in-use off-road vehicles). Over the years, CARB has submitted many requests for waiver or authorization of its standards and other requirements relating to the control of emissions from new on-road and new and in-use off-road vehicles and engines, and the EPA has granted many such requests. Once the EPA grants the request for

waiver or authorization, CARB may enforce the corresponding mobile source regulations, and until 2015, the EPA had approved California air quality plans that take credit for emissions reductions from such regulations, notwithstanding the fact that California had not submitted these particular regulations as part of the California SIP.

The EPA's longstanding practice of approving California plans that rely on emissions reductions from such "waiver measures," notwithstanding the lack of approval as part of the SIP, was challenged in several petitions filed in the Ninth Circuit Court of Appeals. In a 2015 decision, the Ninth Circuit held in favor of the petitioners on this issue and concluded that CAA section 110(a)(2)(A) requires that all state and local control measures on which SIPs rely to attain the NAAQS be included in the SIP and thereby subject to enforcement by the EPA and members of the general public. *See Committee for a Better Arvin v EPA*, 786 F.3d 1169 (9th Cir. 2015).

In response to the decision in *Committee for a Better Arvin v. EPA*, CARB submitted SIP revisions on August 14, 2015, December 7, 2016, and June 15, 2017, consisting of State mobile source regulations that establish standards and other requirements for the control of emissions from various new on-road and new and in-use off-road vehicles and engines for which the EPA has issued waivers or authorizations and that are relied upon by California regional plans to attain and maintain the NAAQS. The EPA took final action on CARB's August 14, 2015, and December 7, 2016 submittals at 81 FR 39424 (June 16, 2016) and 82 FR 14446 (March 21, 2017), respectively. In today's action, the EPA is proposing action on CARB's June 15, 2017 SIP revision submittal.

II. The State's Submittal

A. What regulations did the State submit?

On June 15, 2017, CARB submitted a SIP revision that included a set of State mobile source regulations for which waivers or authorizations have been granted by the EPA under section 209 of the CAA since the previous related SIP revision submittal (*i.e.*, since December 7, 2016). The SIP revision consists of the regulations themselves and documentation of the public process conducted by CARB in approving the regulations as part of the California SIP. Table 1 below presents the contents of the SIP revision by mobile source category and provides, for each such category, a listing of the relevant sections of the California Code of Regulations (CCR) that establish standards and other requirements for control of emissions from new or in-use vehicles or engines; the corresponding date of CARB's hearing date or Executive Officer action through which the regulations or amendments were adopted; and the notice of decision in which the EPA granted a waiver or authorization for the given set of regulations.

Table 1: CARB SIP Revision Submittal Summary			
Source Category	Relevant Sections of California Code of Regulations	Date of Relevant CARB Hearing Date or Executive Officer Action	EPA Notice of Decision
Commercial Harbor Craft (CHC)	17 CCR § 93118.5 (excluding (e)(1)), effective for State law purposes on July 20, 2011.	June 24, 2010	82 FR 6500 (January 19, 2017)
In-Use Diesel-Fueled Transport Refrigeration Units (TRUs)	13 CCR §§ 2477, 2477.1 through 2477.21, effective for State law purposes on October 15, 2012.	October 21, 2011	82 FR 6525 (January 19, 2017)
On-Road Heavy-Duty Diesel (HDD) Engines	13 CCR § 1956.8, effective for State law purposes on December 22, 2011, and the document incorporated by reference (see table 2 below).	June 23, 2011	82 FR 4867 (January 17, 2017)
Off-Highway Recreational Vehicles (OHRVs)	13 CCR §§ 2416, 2417, 2418, 2419, 2419.1-2419.4, effective for State law purposes on April 1, 2015, and the	July 25, 2013	82 FR 6540 (January 19, 2017)

	document incorporated by reference (see table 2 below).		
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The regulations submitted by CARB as part of the overall SIP revision and listed in Table 1 incorporate by reference documents that establish test procedures, among other things. Table 2 lists the incorporated documents included in the SIP submittal.

Table 2: Documents Incorporated by Reference in CARB Regulations Listed in Table 1 and Submitted as Part of SIP Revision
<i>On-Road Heavy-Duty Diesel Engines:</i>
California Exhaust Emission Standards and Test Procedures for 2004 and Subsequent Model Heavy-Duty Diesel Engines and Vehicles, as last amended October 12, 2011.
<i>Off-Highway Recreational Vehicles and Engines:</i>
Test Procedure for Determining Evaporative Emissions from Off-Highway Recreational Vehicles (TP-933), dated November 5, 2014.

We note that CARB has expressly excluded 17 CCR § 93118.5(e)(1) from consideration as part of the SIP revision on the grounds that it is not preempted and thus not included in the EPA's authorization of the amended CHC regulations. The excluded provision requires use of low sulfur fuel by all commercial harbor craft within certain California waters with certain exceptions. This same provision was excluded from the SIP submittal of the original CHC regulations, which the EPA approved at 81 FR 39424 (June 16, 2016).

B. Are there other versions of these regulations?

Historically, as noted above, CARB regulations subject to the section 209 waiver or authorization process were not submitted to the EPA as a revision to the California SIP. However, in the wake of the Ninth Circuit's decision in *Committee for a Better Arvin v. EPA*, on August 14, 2015, CARB submitted a large set of mobile source regulations that had been issued waivers or authorizations to the EPA as a SIP revision. The EPA took final approval action on this first set of regulations on June 16, 2016 (81 FR 39424). CARB's initial set of regulations

included regulations establishing standards and other requirements relating to the control of emissions from new on-road vehicles and engines, including certain requirements related to on-road HDD vehicle and engines, from new and in-use off-road vehicles and engines, including certain requirements related to CHC, TRUs, and OHRVs. On December 7, 2016, CARB submitted a second set of mobile source regulations, *i.e.*, those for which waivers or authorizations had been issued since August 2015, and the EPA approved them on March 21, 2017 (82 FR 14446). CARB's December 7, 2016 SIP revision submittal contained certain amended on-board diagnostic system regulations for new on-road vehicles and engines and certain amendments to the regulations affecting off-road large spark-ignition engines, small off-road engines, and off-road compression-ignition engines. CARB's June 15, 2017 SIP revision submittal represents the third set of mobile source regulations, which include regulations for which the EPA issued waivers or authorization since December 2016. This third set of regulations consists of amendments to the previously-approved regulations for on-road HDD engines, CHC, TRUs, and OHRVs.

C. What is the purpose of the submitted regulations?

California has experienced some of the most severe and most persistent air pollution problems in the country. Under the CAA, based on ambient data collected at numerous sites throughout the State, the EPA has designated areas within California as nonattainment areas for the ozone NAAQS and the particulate matter (PM) NAAQS, which includes both coarse and fine particulate (*i.e.*, PM₁₀ and PM_{2.5}). *See*, generally, 40 CFR 81.305. Several areas in California that had been designated as nonattainment areas for the carbon monoxide NAAQS have been redesignated by the EPA as attainment areas because they have attained the standard and are subject to an approved maintenance plan demonstrating how they will maintain the carbon

monoxide standard into the future.

Mobile source emissions constitute a significant portion of overall emissions of carbon monoxide, volatile organic compounds (VOC), oxides of nitrogen (NO_x), sulfur dioxide (SO₂) and PM in the various air quality planning areas within California, and thus, the purpose of CARB's mobile source regulations is to reduce these emissions and thereby reduce ambient concentrations to attain and maintain the NAAQS throughout California.² At elevated levels, ozone and PM harm human health and the environment by contributing to premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems.

D. What requirements do the regulations establish?

Table 3 below generally describes the amended regulations listed in table 1 above and summarizes some of the key emissions control requirements contained in the rules.

Table 3: General Description of Requirements Established in the Mobile Source Regulations Included in the June 15, 2017 SIP Revision	
Source Category	Description of Requirements in Submitted Regulations
Commercial Harbor Craft (CHC)	The 2011 amendments to the CHC regulations set forth a variety of in-use requirements, including extending the applicability of the CHC regulations to in-use crew and supply, barge and dredge vessels that are equipped with federal Tier 0 and Tier 1 propulsion and auxiliary marine engines that operate within 24 miles seaward of the California coastline; eliminate certain exemptions for CHC engines that had been registered in a different CARB program; allow EPA or CARB Tier 2 or higher tier certified off-road engines to be used as auxiliary or propulsion engines in both new and in-use CHC vessels; and clarify requirements and address certain issues that have arisen during CARB's implementation of the original CHC regulations. For more information, <i>see</i> 82 FR 6500 (January 19, 2017).
In-Use Diesel-Fueled Transport	The 2011 amendments to the TRU regulations primarily provide owners of TRU engines with certain flexibilities; clarify recordkeeping requirements

² VOC and NO_x are precursors responsible for the formation of ozone, and NO_x and SO₂ are precursors for PM_{2.5}. SO₂ belongs to a family of compounds referred to as sulfur oxides. PM_{2.5} precursors also include VOC and ammonia. *See* 40 CFR 51.1000.

Refrigeration Units (TRU)	for certain types of TRU engines; establish requirements for businesses that arrange, hire, contract, or dispatch the transport of goods in TRU-equipped trucks, trailers, or containers; and address other issues that arose during the initial implementation of CARB's TRU regulation. For more information, <i>see</i> 82 FR 6525 (January 19, 2017).
On-Road Heavy-Duty Diesel (HDD) Engines	The 2011 amendments to the HDD in-use compliance regulations establish a new PM measurement allowance consistent with amendments by the EPA to the corresponding federal program; and clarify an exemption for certain armored cars and workover rigs. For more information, <i>see</i> 82 FR 4867 (January 17, 2017).
Off-Highway Recreational Vehicles (OHRVs)	The 2014 amendments to the OHRV regulations establish a new evaporative emission standard of 1.0 gram per day for the complete OHRV fuel system which includes running losses (evaporative emissions generated during vehicle operation), hot soak (evaporative emissions generated directly after vehicle operation), and diurnal losses (evaporative emissions generated during long term storage); establish diurnal and fuel system leakage standards and associated test procedures for 2018 and subsequent model year OHRVs; and establish certain durability test procedures and other test procedure provisions for preconditioning evaporative emission control systems and components, running loss and hot soak preconditioning tests, and test procedures for the 72-hour and steady-state diurnal tests. The California OHRV category encompasses a wide variety of vehicles, including off-road motorcycles, all-terrain vehicles, off-road sport and utility vehicles, sand cars, and golf carts. For more information, <i>see</i> 82 FR 6540 (January 19, 2017).

III. EPA's Evaluation and Proposed Action

A. How is the EPA evaluating the regulations?

The EPA has evaluated the submitted regulations discussed above against the applicable procedural and substantive requirements of the CAA for SIPs and SIP revisions and has concluded that they meet all the applicable requirements. Generally, SIPs must include enforceable emission limitations and other control measures, means, or techniques, as well as schedules and timetables for compliance, as may be necessary to meet the requirements of the Act (*see* CAA section 110(a)(2)(A)); must provide necessary assurances that the state will have adequate personnel, funding, and authority under state law to carry out such SIP (and is not prohibited by any provision of federal or state law from carrying out such SIP) (*see* CAA section

110(a)(2)(E)); must be adopted by a state after reasonable notice and public hearing (*see* CAA section 110(l)); and must not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the Act (*see* CAA section 110(l)).³

B. Do the State's regulations meet CAA SIP evaluation criteria?

1. Did the state provide adequate public notification and comment periods?

Under CAA section 110(l), SIP revisions must be adopted by the state, and the state must provide for reasonable public notice and hearing prior to adoption. In 40 CFR 51.102(d), we specify that reasonable public notice in this context refers to at least 30 days.

All the submitted regulations have gone through extensive public comment processes including CARB's workshop and hearing processes prior to State adoption of each rule. Also, the EPA's waiver and authorization processes provide an opportunity for the public to submit written comment and to request public hearings to present information relevant to the EPA's consideration of CARB's request for waiver or authorization under section 209 of the CAA.

In addition, on June 19, 2015, CARB published a notice of public hearing to consider adoption and submittal of certain adopted regulations as a revision to the California SIP including those submitted by CARB on June 15, 2017. CARB held the public hearing on July 23, 2015. No written comments were submitted to CARB on the proposed SIP revision, and no public comments were made at the public hearing. CARB adopted the SIP revision at the July 23, 2015 Board Hearing (*see* Board Resolution 15-40) and submitted the relevant mobile source

³ CAA section 193, which prohibits any pre-1990 SIP control requirement relating to nonattainment pollutants in nonattainment areas from being modified unless the SIP is revised to insure equivalent or greater emission reductions of such air pollutants, does not apply to these regulations because they are new regulations or amend regulations previously approved in the California SIP in 2016, and thus, do not constitute an amendment to a pre-1990 SIP control requirement.

regulations to the EPA along with evidence of the public process conducted by CARB in adopting the SIP revision.⁴ We conclude that CARB's June 15, 2017 SIP revision submittal meets the applicable procedural requirements for SIP revisions under the CAA section 110(l) and 40 CFR 51.102.

2. Does the state have adequate legal authority to implement the regulations?

CARB has been granted both general and specific authority under the California Health & Safety Code (H&SC) to adopt and implement these regulations. California H&SC sections 39600 ("Acts required") and 39601 ("Adoption of regulation; Conformance to federal law") confer on CARB the general authority and obligation to adopt regulations and measures necessary to execute CARB's powers and duties imposed by State law. California H&SC sections 43013(a) and 43018 provide broad authority to achieve the maximum feasible and cost-effective emission reductions from all mobile source categories. Regarding in-use motor vehicles, California H&SC sections 43600 and 43701(b), respectively, grant CARB authority to adopt emission standards and emission control equipment requirements.

The mobile source regulations that are the subject of today's action were submitted by CARB under CAA section 209 with a request for waiver or authorization and were granted such waiver or authorization by the EPA. Thus, the regulations we are proposing to approve today are not preempted under the CAA. For additional information regarding California's motor vehicle emission standards, please see the EPA's "California Waivers and Authorizations" Web page at URL address: <http://www.epa.gov/otaq/cafr.htm>. This Web site also lists relevant **Federal Register** notices that have been issued by the EPA in response to California waiver and

⁴ In addition to CARB's June 15, 2017 submittal, prior submittals of relevant mobile source regulations were made on August 14, 2015 and December 7, 2016. The EPA took final actions on the 2015 and 2016 submittals on June 16, 2016 (81 FR 39424) and March 21, 2017 (82 FR 14446), respectively.

authorization requests.

In addition, the EPA is unaware of any non-CAA legal obstacle to CARB's enforcement of the regulations and thus we conclude that CARB has provided the necessary assurances that the State has adequate authority under State law to carry out the SIP revision (and is not prohibited by any provision of federal or State law from carrying out such SIP) and thereby meets the requirements of CAA section 110(a)(2)(E) with respect to legal authority.

3. Are the regulations enforceable as required under CAA section 110(a)(2)?

We have evaluated the enforceability of the amended mobile source regulations with respect to applicability and exemptions; standard of conduct and compliance dates; sunset provisions; discretionary provisions; and test methods, recordkeeping and reporting,⁵ and have concluded for the reasons given below that the amended regulations would be enforceable for the purposes of CAA section 110(a)(2).

First, with respect to applicability, we find that the amended regulations are sufficiently clear as to which persons and which vehicles or engines are affected by the regulations. *See, e.g.*, 13 CCR sections 2416(a) and (b) (applicability and exemption provisions for OHRV evaporative emissions requirements), 13 CCR sections 2477.2 and 2477.3 (applicability and exemption provisions for in-use diesel-fueled TRUs), and 17 CCR sections 93118.5(b) and (c) (applicability and exemption provisions for commercial harbor craft).

Second, we find that the amended regulations are sufficiently specific so that the persons affected by the regulations are on notice as to what the requirements and related compliance dates are. For instance, see the evaporative emission standards and test procedures set forth for

⁵ These concepts are discussed in detail in an EPA memorandum from J. Craig Potter, EPA Assistant Administrator for Air and Radiation, *et al.*, titled "Review of State Implementation Plans and Revisions for Enforceability and Legal Sufficiency," dated September 23, 1987.

OHRVs in 13 CCR section 2418, the in-use compliance dates for TRUs in 13 CCR section 2477.5(b), and the engine emission requirements in 17 CCR sections 93118.5(e)(2)-(6).

Third, none of the amended regulations contain sunset provisions that automatically repeal the emissions limits by a given date or upon the occurrence of a particular event, such as the change in the designation of an area from nonattainment to attainment.

Fourth, a number of the amended regulations contain provisions that allow for discretion on the part of CARB's Executive Officer. Such "director's discretion" provisions can undermine enforceability of a SIP regulation, and thus prevent full approval by the EPA. However, in the instances of "director's discretion" in the amended regulations, the discretion that can be exercised by the CARB Executive Officer is reasonably limited under the terms of the regulations. For instance, in 17 CCR 93118.5(e)(6)(E), the Executive Officer may grant a time-limited extension to the compliance date that would otherwise apply only for specific reasons and under limited circumstances as set forth in the regulation. With such constraints on discretion, the "director's discretion" contained in the amended regulations would not significantly undermine enforceability of the rules by citizens or the EPA.

Lastly, the amended regulations identify appropriate test methods and include adequate recordkeeping and reporting requirements sufficient to ensure compliance with the applicable requirements.

4. Do the regulations interfere with reasonable further progress and attainment or any other applicable requirement of the Act?

All the State's reasonable further progress (RFP), attainment, and maintenance plans rely to some extent on the emission reductions from CARB's mobile source program, including the emissions standards and other requirements for which the EPA has issued waivers or

authorizations. CARB's mobile source program is reflected in the emissions estimates for mobile sources that are included in the emissions inventories that form the quantitative basis for the RFP, attainment, and maintenance demonstrations. Based on CARB estimates, the amended regulations evaluated herein would, considered together, reduce VOC, NO_x, and PM emissions by approximately 1,220 tons per year (tpy), 270 tpy, and 20 tpy, respectively, on a statewide basis in year 2023.⁶ As such, the amended regulations would support the various RFP, attainment, and maintenance plans, and would not interfere with such requirements for the purposes of CAA section 110(l).

5. Will the state have adequate personnel and funding for the regulations?

In its SIP revision submittal dated August 14, 2015, CARB refers to the annual approval by the California Legislature of funding and staff resources for carrying out CAA-related responsibilities and notes that a large portion of CARB's budget has gone toward meeting CAA mandates.⁷ CARB indicates that a majority of CARB's funding comes from dedicated fees collected from regulated emission sources and other sources such as vehicle registration fees and vehicles license plate fees and that these funds can only be used for air pollution control activities. *Id.* For the 2014-2015 budget cycle, CARB had over 700 positions and almost \$500 million dedicated to the mobile source program developing and enforcing regulations. *Id.* Given the longstanding nature of CARB's mobile source program, and its documented effectiveness at achieving significant reductions from mobile sources, we find that CARB has provided necessary assurances that the State has adequate personnel and funding to carry out the amended

⁶ The emissions estimates are based on emissions presented in the Initial Statement of Reasons (ISOR) published by CARB for each of the four individual regulatory actions considered herein. The relevant ISORs are included in the docket for this rulemaking.

⁷ Letter from Richard W. Corey, Executive Officer, CARB, to Jared Blumenfeld, Regional Administrator, EPA Region IX, August 14, 2015.

mobile source regulations submitted for approval on June 15, 2017.

6. EPA's evaluation conclusion.

Based on the above discussion, we believe these regulations are consistent with the relevant CAA requirements and with relevant EPA policies and guidance.

C. Proposed Action and Public Comment.

Under section 110(k)(3) of the CAA, and for the reasons given above, we are proposing to approve a SIP revision submitted by CARB on June 15, 2017, that includes certain sections of titles 13 and 17 of the California Code of Regulations that establish standards and other requirements relating to the control of emissions from certain new and in-use on-road and off-road vehicles and engines. We are proposing to approve these regulations as part of the California SIP because we believe they fulfill all relevant CAA requirements. We will accept comments from the public on this proposal until [**Insert date 30 days after date of publication in the Federal Register**]. If we finalize this action as proposed, the submitted regulations will be incorporated into the federally enforceable SIP for the State of California.

IV. Incorporation by Reference

In this action, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference of certain sections of titles 13 and 17 of the California Code of Regulations that establish standards and other requirements relating to the control of emissions from certain new on-road and new and in-use off-road vehicles and engines, as described in section II of this preamble. The EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more

information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: February 15, 2018.

Alexis Strauss,
Acting Regional Administrator,
Region IX.

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